



# State of Wisconsin • DEPARTMENT OF REVENUE

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**Jim Doyle**  
Governor

**Roger M. Ervin**  
Secretary of Revenue

## Assembly Committee on Consumer Protection and Personal Privacy Hearing, April 19, 2007

### **Assembly Bill 166 – Privacy of Taxpayer Information (Representative Friske)**

#### *Description of Current Law and Proposed Change*

- The bill prohibits a tax preparer or an entity that employs tax preparers from disclosing information obtained in the course of preparing a client's tax return unless the tax preparer or entity discloses the parties to whom the tax preparer or entity intends to disclose the information and the client consents in writing.

#### *Fairness/Tax Equity*

- The bill provides protection of taxpayer information by prohibiting tax preparers from selling or disclosing any taxpayer information without the taxpayer's consent.

#### *Impact on Economic Development*

- None.

#### *Administrative Impact/Fiscal Effect*

- The draft language should exempt the Wisconsin Department of Revenue and the Internal Revenue Service or other taxing authority from this requirement. If not, tax preparers would need to have written consent to file the taxes with the taxing authority.
- A Power of Attorney form is currently required for preparers who represent clients in communicating about the tax returns. The protection provided under the bill would therefore be redundant for taxing authorities when communicating with preparers regarding an already filed return.

#### *DOR Position*

- Support with changes to exempt the Wisconsin Department of Revenue and Internal Revenue Service or other taxing authorities from the requirement.

Prepared by: Rebecca Boldt, 266-6785

April 17, 2007

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**Remarks for Committee on Consumer Protection & Personal Privacy**  
*Regarding AB 166 – Tax Preparation Information Disclosure*  
By Representative Donald Friske  
April 19, 2007

Thank you Chairman Lothian and Committee members. I appreciate your hearing today and scheduling this legislation for your consideration.

In early 2006, I received information the IRS was considering making changes to its rules regarding the disclosure of personal information by tax preparation businesses.

I watched the process with interest in hopes the proposed rule changes would be adopted. Unfortunately, the federal government decided not to implement the proposed changes.

In an effort to ensure Wisconsin taxpayers have the opportunity to opt out of having their personal information shared with other businesses. Given the recent examples of personal information that has been hacked into electronically or mistakenly released by private businesses and governments, this legislation will provide an obvious opportunity to Wisconsin taxpayers to opt out of increased risk of identity theft.

The legislation, AB 166, mirroring the originally proposed IRS rule, requires tax preparation businesses to provide a document that identifies whom the tax preparer or entity intends to disclose the information to which is signed, or opted into, by the client.

[ The Department of Agriculture, Trade and Consumer Protection has projected the bill will cost an additional \$130,000 for salary and fringe benefits to pay 2.0 additional full time investigators. I will work with the Department to determine if there is an alternative means to achieve this end in a more cost efficient manner. ]

Thank you for your consideration of this bill.





State of Wisconsin  
Jim Doyle, Governor

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**Department of Agriculture, Trade and Consumer Protection**  
Rod Nilsestuen, Secretary

April 19, 2007

The Honorable Thomas Lothian, Chair  
Committee on Consumer Protection and Personal Privacy

**Re: AB 166 relating to information obtained by a tax preparer in the course of preparing a client's tax return.**

Dear Representative Lothian:

Thank you for permitting the Department of Agriculture, Trade & Consumer Protection the opportunity to testify for information regarding AB 166.

We applaud the spirit of AB 166 and recognize that since identity theft is becoming an increasingly alarming problem, it is critical that those entities that obtain consumers' personal data need to obtain permission from those consumers when that data is going to be shared with other parties. However, we believe that changes are necessary if the legislation is to really be effective at protecting Wisconsin consumers.

AB 166 requires a tax preparer to have a client sign a separate document that identifies the parties to whom the tax preparer intends to disclose the taxpayer's information. However, the bill does not require that the tax preparer disclose what information is to be disclosed or for what purpose the information is being disclosed, e.g., being sold, marketing another product, survey analysis.

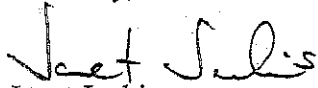
In addition, the bill does not set any limit on the duration of the taxpayer's consent. As written, the consent given lasts in perpetuity. We believe this is unreasonable. Moreover, we believe the consumer should receive a copy of the consent s/he signs. This is standard practice in most consumer protection laws.

We are also concerned about the lack of any penalties expressed in the legislation. As a result, the default penalty under ch.100 applies which is criminal misdemeanor thereby being prosecutable only by District Attorneys. Given the myriad of serious crimes that District Attorneys are called on to prosecute, our experience is that this law will be largely unenforced. Therefore, we encourage a civil penalty that both the Department and District Attorneys can enforce.

Finally, on a technical note, the bill uses the words "party" and "parties". We believe "persons" would be better since it has a better defined meaning in law; "party" is typically only used in context of people involved in lawsuits.

We thank the Committee for the opportunity to provide comments on AB 166.

Sincerely,

A handwritten signature in dark ink, appearing to read "Janet Jenkins". The signature is fluid and cursive, with the first name "Janet" written in a larger, more prominent script than the last name "Jenkins".

Janet Jenkins

Administrator

Division of Trade & Consumer Protection